

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHILIP FEI, on behalf of himself and classes
of those similarly situated,

Plaintiff,

v.

WESTLB AG,

Defendant.

Index No.: 07 Civ. 8785 (HB) (FM)

AFFIDAVIT OF LISA CARRO

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Lisa Carro, being duly sworn, deposes and says:

1. I am the Managing Director in the Human Resources Department at WestLB AG ("WestLB"), New York. I submit this affidavit in opposition to Plaintiff's Motion for Conditional Certification and Court-Authorized Notice Pursuant to Section 216(b) of the FLSA. The information contained herein is based upon my personal knowledge, the records of WestLB, and information provided to me by WestLB employees.

2. Employees at WestLB have corporate titles which describe their position in the WestLB corporate hierarchy. These corporate titles are Intern, Officer, Executive, Manager, Associate Director, Director, Executive Director, and Managing Director. Employees with the same corporate titles hold different jobs with different titles and responsibilities. Each employee has a functional title which describes the employee's job function in greater detail and is captured in WestLB's human resources information system. Employees also have job titles which would reflect the employee's job duties in even more detail than the functional title.

3. Currently, all employees with the corporate title of Executives are non-exempt and are paid overtime. The current job titles of Executive level positions include Administrative Assistant, Executive Assistant, Facilities Administrator, and Mail Assistant.

4. During the July 2004 to June 2005 period, WestLB reviewed the classifications of employees with the corporate title of Executive to determine whether the employee should be eligible for overtime pay. Previously, some positions with the corporate title of Executive were classified as exempt from overtime payments and others were classified as non-exempt. After the review, the employees who had previously been classified as non-exempt continued to be classified as non-exempt. As of June 2005, most of the employees with the corporate title of Executive who had previously been classified as exempt were reclassified as non-exempt. All employees with the corporate title of Executive that were reclassified as non-exempt and who were employed with WestLB as of June 2005 were given back pay for overtime worked from August 2004.

5. I have reviewed the documents annexed as Exhibit G to the declaration of Linda Neilan which lists eighteen employees with the corporate title of Executive who were reviewed as part of this classification process that continued to be classified as exempt. Attached as Exhibit A to this affidavit are true and correct copies of job descriptions for seventeen of these employees. There is no job description for the position held by Jan Pieterse. Seven of these employees were classified as exempt under the Computer Employee Exemption. These employees held job titles such as Network Security Engineer, Graphic Design/Intranet Administrator, LN Sr. Application Developer, and Desktop Engineer. All eighteen of these employees have since been promoted to the corporate title of Manager or are no longer employed by WestLB. Seven of these employees worked in the offices of WestAM Houston. The

positions held by six of these employees were eliminated following the closing of the WestAM Houston office in 2006. One of these employees, Ronald Espinoza, was promoted to exempt manager in 2006 and transferred to New York prior to leaving WestLB in 2007. These employees held job titles such as Account Administrator, Corporate Accountant, Trade Settlement Supervisor, and Sr. Account Administrator.

6. Five of these employees, Ziauddin Ahmed, Madhu Bavigadda, John Bixler, Anibal Burgos and Marvin Zheng left WestLB's employ in 2004 and were not employed by WestLB within the last three years.

7. Five of these employees, Karin Eberhardt, Amy Favetta, Cia-Li Lin, Brendan McGlynn and Jane Wilson, were promoted to exempt Manager positions in April 2005. One of these employees, Jan Pieterse, was promoted to an exempt Manager position in November 2004 and to Associate Director in April 2005. Thus, none were employed as Executives within the last three years.

8. Only seven of these eighteen employees were exempt employees with the corporate title of Executive, as of May 1, 2005. Two of these employees, Galen Bancroft (Graphic Design/Intranet Administrator) and Kannan Rangan (LN Senior Application Developer) were classified as exempt under the Computer Professional Exemption. Five of these seven employees worked in the West AM Houston office before it closed. Four were classified as exempt under the Administrative Exemption: Matthew Cepni (Account Administrator), Ronald Espinoza (Corporate Accountant), Vanessa Schumack (Senior Account Administrator) and Scott Wartelle (Senior Account Administrator) and one, Yvonne Quintero (Trade Settlement Supervisor), was classified as exempt under the Executive Exemption.

9. Thereafter, in 2006-2007, WestLB reviewed the classifications of employees with the corporate title of Manager to determine whether the employee should be eligible for overtime. In January 2007, 13 employees were reclassified as non-exempt Managers and became eligible for overtime pay. In May 2007, 13 additional Managers were classified as non-exempt and became eligible for overtime pay. Nine additional employees were hired in 2006-2007 as non-exempt managers. These employees are paid overtime pay.

10. Currently, the corporate title of Manager also includes employees that are classified as exempt. Exempt managers are paid a salary and are eligible for a discretionary bonus.

11. There are currently more than 50 different jobs in the corporate level of Manager. The current positions held by exempt Managers include Accountant – WestAM Mellon, Accounting Manager - HR, Analyst – Derivative Marketing, Associate Trade Finance, Balance Sheet Accountant, Business Continuity Coordinator, Conduit Associate – Group Finance, CRMA Risk Analyst, Deal Specialist, Developer FI, Execution & Structuring Support Analyst, Expense Controller, Graphic Designer, Human Resources Manager, Intermediate Auditor, Junior Auditor, Junior Trader, Manager – Communications, Office Manager, P&L Accountant, Partnership Accountant, Payroll Manager, Physical Security and Facilities Assistant, Product Control Credit Products, Product Control Interest Rate Products, Relationship Manager Public Finance, SAP Projects and Reporting, Senior Associate – Mellon, and Tax Accountant. The current positions held by non-exempt managers include Analytic Support, Associate Trade Finance, Junior Deal Specialist, Junior Documentation Specialist, Loan Trading Closer – Deal Specialist, Regulatory Reporting Accountant, Senior Deal Specialist, and Specialist –

Operations. Attached as Exhibit B to this affidavit are true and correct job descriptions for these positions.

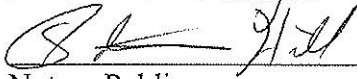
12. While he was employed at WestLB Philip Fei held the position of Payroll Manager. There is currently one person with that job title.



LISA CARRO

Sworn to before me this

23 day of May, 2008



Notary Public

PATRICIA HILL
Notary Public, State of New York
No. 01HI6037407
Qualified in Kings County
Commission Expires March 20, 2010